

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:21-00087

MARK BOLLING

MEMORANDUM OPINION AND ORDER

Pending before the court is the motion of defendant for a continuance of trial and all related deadlines and for a finding of excludable time under the Speedy Trial Act. (ECF No. 103.) In support of defendant's motion, counsel for defendant explains that counsel needs additional time to prepare this case given his involvement with another complicated criminal trial that is scheduled to begin on November 1, 2022. That other trial is likely to last several weeks which would interfere with preparation for and the start of the trial in this case. The government does not object to a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** defendant's motion to continue. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion would unreasonably deny defendant continuity of counsel and would also

deny counsel for the defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Id. § 3161(h) (7) (B) (iv).

Accordingly, the court hereby **ORDERS** as follows:

1. The deadline for the filing of pretrial motions is continued to **November 9, 2022;**
2. The Pretrial Motions Hearing is continued to **November 16, 2022**, at 1:30 p.m. in Charleston;
3. Jury Instructions and Proposed Voir Dire are due by **November 30, 2022;**
4. Trial of this action is continued to **December 7, 2022**, at 9:30 a.m. in Charleston; and
5. Pursuant to 18 U.S.C. § 3161(h) (7) (A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 12th day of October, 2022.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", written over a horizontal line.

David A. Faber

Senior United States District Judge